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May 22, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
12th Street Lobby - TW - A325
Washington, D.C. 20554

Re: Petition for Rule Making
Harper, Texas

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of a Petition
for Rule Making to add Channel 297A at Harper, Texas.

Respectfully submitted,



Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 520-7077 Tele
(214) 443-9308 Fax

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MB 03-103

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Before the
Federal Communications Commission MAY 22 2003
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of 73.202 (b)) MB Docket No. _____
Table of Allotments)
FM Broadcast Stations)
(Harper, TX)

To: John Karousos, Assistant Chief
Audio Division of the
Media Bureau

PETITION FOR RULE MAKING

Pursuant to 47 C.F.R. 1.401, Charles Crawford respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 297A at Harper, Texas.

DISCUSSION

Petitioner respectfully submits that the public interest would be served by allocating Channel 297A to Harper, Texas as that community's first local FM service. Harper, Texas is a census designated place with its own zip code and a population of 1,006 persons.¹ Harper has its own school system, its own fire department, police department, post office, Harper Community Hall, Harper Chamber of Commerce and a number of churches. Harper is a community that is certainly deserving of local FM service. The proposed channel 297A will provide additional diversity and an outlet for local self-expression to Harper residents and therefore is in the public interest.

In order for Channel 297A to be allotted at Harper, Texas, the vacant allotment for Channel 297A at Junction will need to be replaced with Channel 252A and station KXTN Channel 298C in San Antonio will need to be reclassified to a C0.

¹ According to the 2002/ 2003 Texas Almanac.

Pursuant to MM Docket 98-93, I am making a formal request for station KXTN in San Antonio to be reclassified from a C to a C0. (See, Attachment A, Request to Reclassify statement)

Attached hereto is a channel study confirming that Channel 297A can be allocated to Harper, Texas, consistent with the FCC's FM separation rules, provided 298C in San Antonio is reclassified to a C0 and Channel 297A at Junction is moved to Channel 252A. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment B) Note: Channel 297A at Llano, Texas was dismissed by Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C)

Reference coordinates for Channel 297A at Harper, Texas are:

30 18 35 N
99 20 23 W

Attached hereto is a channel study confirming that Channel 252A can be allocated to Junction, Texas, consistent with the FCC's FM separation rules. (See, Attachment D)


Reference coordinates for Channel 252A at Junction, Texas are:

30 31 01 N
99 48 43 W

Should this petition be granted and Channel 297A be allotted to Harper, Texas, Petitioner will apply for Channel 297A at Harper and after it is authorized, will promptly construct the new facility.

The factual information provided in this Petition for Rule Making is correct and true to the best of my knowledge.

Respectfully submitted,


Charles Crawford

4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 520-7077 Tele
(214) 443-9308 Fax

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite
600, 1050 17th Street, N.W., Washington, D.C. 20036,
telephone (202) 496-1289, telecopier (301) 762-0156,
attorney for Charles Crawford. It is requested that the
Commission and any parties who may file pleadings in the
captioned matter serve copies to Mr. Bechtel as well as
Charles Crawford.

May 22, 2003

Attachment A

(Request to Reclassify station KXTN/ San Antonio)

Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205

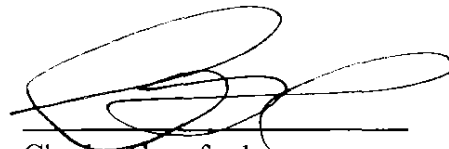
Petition for Rule Making
FM Channel 297A
Harper, Texas
May 21, 2003

Attachment A

Request to Reclassify
Station KXTN(FM), San Antonio, Texas
Pursuant to MM Docket 98-93

Radio Station KXTN(FM), San Antonio, Texas is licensed to Tichenor License Corporation, 3102 Oak Lawn Avenue, Suite 215, Dallas, Texas, 75219. (Facility ID 67064), FCC File No. BLH 19840705CB. The facility operates with a power of 100 kilowatts with center of radiation 448 meters height above average terrain. The above captioned Docket 98-93 provides the mechanism to automatically downgrade a Class C facility to Class C0 when a demand is made for the spectrum, as is the case here. Charles Crawford respectfully requests that the license of Radio Station KXTN(FM) be modified to specify operation on FM Channel 298C0 instead of on FM Channel 298C in accordance with the above Docket which provides for such downgrades when a demand for the unused spectrum is made, as is the case here.

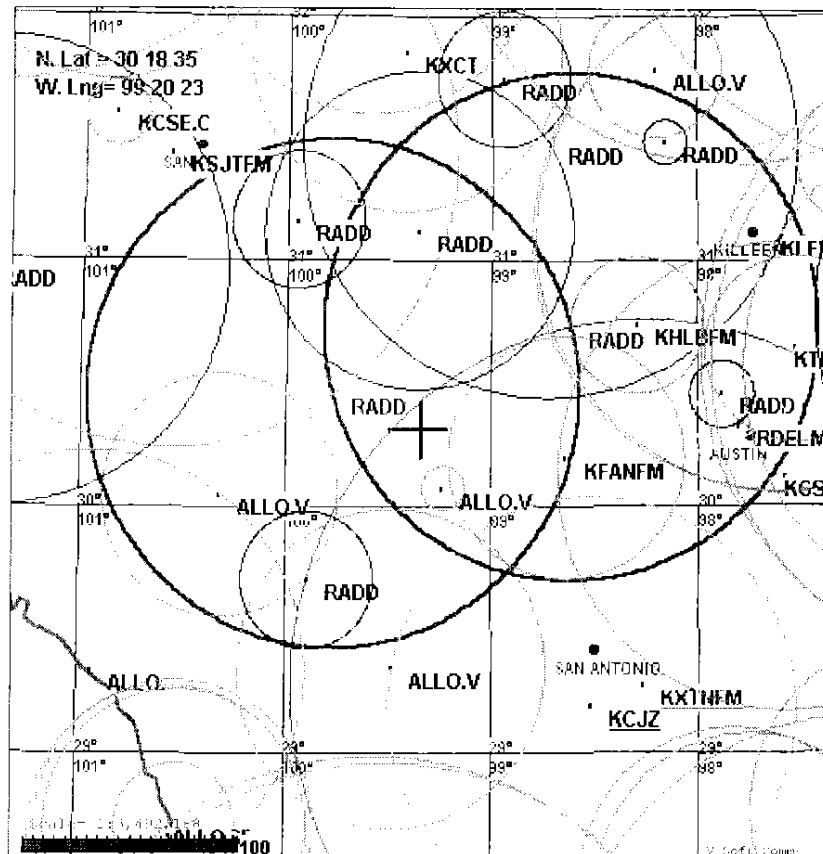
Charles Crawford, the proponent of Channel 297A/ Harper, Texas, in accordance with the above Docket, formally requests that the Commission reclassify Radio Station KXTN(FM) as a Class C0 facility. Charles Crawford certifies that no alternative channel is available for the service he proposes at Harper, Texas as is proposed in the Petition for Rule Making. A copy of this Petition for Rule Making is being served on Tichenor License Corporation, as is required in the above Docket.


Charles Crawford

Attachment B

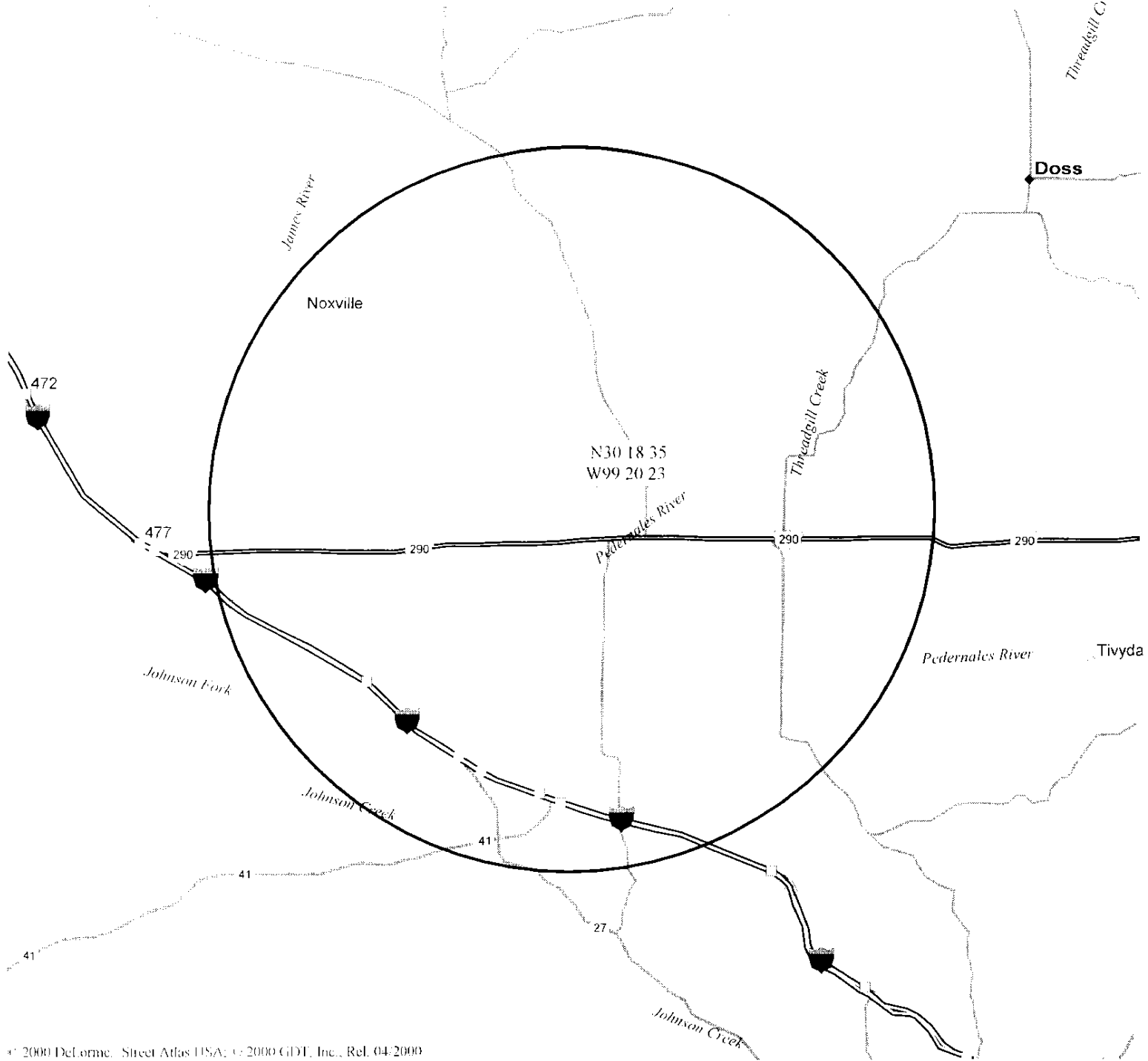
(Channel study for 297A at Harper, Texas)

FM PROPOSED LOCATE STUDY CH 297 A 107.3 MHz
Study



Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	297A	ADD	Junction	TX	44.36	291.9	115.0	-70.64
RADD	297A	ADD	Llano	TX	83.83	56.1	115.0	-31.17
KXTNFM	298C*	LIC	San Antonio	TX	154.83	137.7	165.0	-10.17
KFANFM	300C2	LIC	Johnson City	TX	68.62	100.4	55.0	13.62
RDEL	243A	DEL	Ingram	TX	27.91	158.9	10.0	17.91
ALLO.V	243A	VAC	Ingram	TX	27.91	158.9	10.0	17.91
RADD	296A	ADD	Brady	TX	90.31	358.8	72.0	18.31
RADD	297A	ADD	Goldthwaite	TX	142.11	24.4	115.0	27.11
ALLO.V	296A	VAC	Sabinal	TX	108.60	187.3	72.0	36.60
KSJTFFM	298C1	LIC	San Angelo	TX	171.88	317.2	133.0	38.88
ALLO.V	295C2	VAC	Rocksprings	TX	98.55	252.9	55.0	43.55
KCJZ	294C*	LIC	Terrell Hills	TX	148.16	147.3	95.0	53.16
RADD	299A	ADD	Leakey	TX	86.28	218.4	31.0	55.28
KGSR	296C2	LIC	N Bastrop	TX	170.78	96.6	106.0	64.78
KLFX	297A	LIC	N Nolanville	TX	187.89	62.0	115.0	72.89
RDEL	297A	DEL	Nolanville	TX	189.61	62.1	115.0	74.61
KLFX.A	297A	APP	N Nolanville	TX	189.61	62.1	115.0	74.61
KHLBFM	295A	LIC-Z	Burnet	TX	111.02	64.4	31.0	80.02
RADD	294A	ADD	Eden	TX	111.55	328.7	31.0	80.55
ALLO.	297A		Ciudad Acuna	CI	188.55	234.9	100.0	88.55
KXCT	296A	LIC	Coleman	TX	171.46	357.3	72.0	99.46
RADD	296C2	ADD	Big Lake	TX	209.77	290.6	106.0	103.77
RDEL	244C1	DEL	Georgetown	TX	140.83	83.0	22.0	118.83
RADD	243C2	ADD	Lago Vista	TX	140.83	83.0	15.0	125.83
RADD	243C2	ADD	Lago Vista	TX	140.83	83.0	15.0	125.83
KHFIFM	244C1	LIC	Georgetown	TX	148.02	89.1	22.0	126.02
RDEL	244C1	DEL	Georgetown	TX	148.02	89.1	22.0	126.02
RADD	294A	ADD	Early	TX	163.19	13.2	31.0	132.19

Harper, TX CH 297A 3.16 mv



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Mag 11.00

Mon May 19 12:58 2003

Scale 1:250,000 (at center)

5 Miles

5 KM

- | | | | |
|---|---------------------------|---|--------------------|
|  | Local Road |  | Locale |
|  | US Highway |  | Water |
|  | Interstate/Limited Access |  | River/Canal |
|  | Rest Area with facilities |  | Intermittent River |
|  | Major Connector | | |
|  | State Route | | |
|  | Exit | | |
|  | Small Town | | |

Attachment C

(Report & Order for MM Docket No. 00-148)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MM Docket No. 00-148
FM Broadcast Stations.)	RM-9939
(Quanah, Archer City, Converse, Flatonia,)	RM-10198
Georgetown, Ingram, Keller, Knox City,)	
Lakeway, Lago Vista, Llano, McQueeney,)	
Nolanville, San Antonio, Seymour, Waco and)	
Wellington, Texas, and Ardmore, Durant,)	
Elk City, Healdton, Lawton and Purcell,)	
Oklahoma.)		

REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 7, 2003

Released: May 8, 2003

By the Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* in the captioned proceeding.¹ Nation Wide Radio Stations filed Comments and Reply Comments. First Broadcasting Company, L.P., Rawhide Radio, L.L.C., Next Media Licensing, Inc., Capstar TX Limited Partnership and Clear Channel Broadcast Licenses, Inc. ("Joint Parties") filed a Counterproposal and Reply Comments. Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. filed Joint Reply Comments. Elgin FM Limited Partnership and Charles Crawford ("Elgin-Crawford") jointly filed Reply Comments and Maurice Salsa filed Reply Comments.² For the reasons discussed below, we are dismissing both the initial proposal for Channel 233C3 at Quanah, Texas, and the Counterproposal.

Background

2. At the request of Nation Wide Radio Stations, the *Notice* in this proceeding proposed the allotment of Channel 233C3 to Quanah, Texas.³ In response to the *Notice*, the Joint Parties filed a Counterproposal involving twenty-two communities in Texas and Oklahoma. In one aspect of this Counterproposal, the Joint Parties propose the substitution of Channel 248C for Channel 248C2 at Durant, Oklahoma, reallocation of Channel 248C to Keller, Texas, and modification of the Station KLAK license to specify operation on Channel 248C at Keller, Texas. In order to accommodate this allotment,

¹ 15 FCC Rcd 15809 (MM Bur. 2000).

² In this proceeding, Texas Grace Communications, Elgin FM Limited Partnership, Charles Crawford, Maurice Salsa, M&M Broadcasters, AM&FM Broadcasters and the Joint Parties have filed additional pleadings. In view of our action dismissing the Joint Parties Counterproposal, it will not be necessary to discuss these pleadings in the context of this *Report and Order* terminating this proceeding.

³ Nation Wide Radio Stations has withdrawn its expression of interest in this allotment. In accordance with Section 1.420(j) of the Rules, Nationwide Radio Stations states that neither it nor any of its principals have been paid or promised any consideration for the withdrawal of its expression of interest in the Quanah allotment.

the Joint Parties propose three channel substitutions. Included among those substitutions was the substitution of Channel 230C1 for Channel 248C1 at Archer City, Texas, and the modification of the Station KRZB permit to specify operation on Channel 230C1. On the basis of our own engineering review, Joint Reply Comments filed by Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd., and Reply Comments filed by Maurice Salsa, the proposed transmitter site (33-36-58 and 98-51-42) for the Channel 230C1 allotment at Archer City is short-spaced to a prior-filed application filed by AM & FM Broadcasters, LLC, licensee of Station KICM, Channel 229C2, Krum, Texas, to upgrade to Channel 229C1 (File No. BMPH-20000725AAZ) (the "KICM Class C1 Application").

3. Counterproposals that are in conflict with a previously filed application can be considered if the counterproposal is amended to remove the conflict within 15 days from the date the counterproposal appears on public notice.⁴ The Note also requires a counterproponent to show that it could not have known by exercising due diligence of the pending conflicting FM application. The Joint Parties and AM & FM Broadcasters submitted Reply Comments addressing this issue. Under the agreement, AM & FM Broadcasters agrees to file an application to downgrade Station KICM to Channel 229C2 in the event its application is granted and the Counterproposal is adopted. Pursuant to the agreement, the Joint Parties would "compensate" AM & FM Broadcasters for the downgrade of Station KICM. On August 20, 2001, the staff granted the KICM Class C1 Application.

Discussion

4. We dismiss the Counterproposal because the proposed Archer City Channel 230C1 allotment is short-spaced to the KICM Class C1 construction permit. The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application. Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment.

5. The Commission does not entertain a short-spaced allotment that is contingent on the grant of another application.⁵ This is precisely what the Joint Parties seek. The Archer City allotment is short-spaced to the KICM construction permit and contingent on the staff granting future applications by AM & FM Broadcasters for both a Class C2 construction permit and license. We reject Joint Parties argument that its downgrade proposal complies with the contingent application procedures set forth in Section 73.3517(e) of the Commission's Rules. Section 73.3517(e) permits the simultaneous acceptance of contingent *minor change applications*. It does not authorize the filing of contingent rulemaking petitions. Accordingly, the Counterproposal must be dismissed.

Alternative Proposals

6. The Joint Parties filed an alternative twelve-allotment proposal in anticipation of a staff determination that the Channel 230C1 Archer City allotment is impermissibly short-spaced to the KICM permit. We reject this alternative. A counterproposal must conflict with the proposal set forth in the *Notice*.⁶ In this instance, none of these proposals conflict with Nation Wide Radio Station's initial proposal for a Channel 233C3 allotment at Quanah. As such, we will not bifurcate the Counterproposal or otherwise consider any of these proposals in the context of this proceeding.⁷

⁴ See Note to Section 73.208 of the Rules; *see also Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 8 FCC Rcd 4743 (1993).

⁵ *See Oxford and New Albany, Mississippi*, 3 FCC Rcd 615 (MM Bur. 1988), *recon.* 3 FCC Rcd 6626 (MM Bur. 1988); *see also Cut and Shoot, Texas*, 11 FCC Rcd 16383 (MM Bur. 1996).

⁶ *See Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931, n. 5 (1990).

⁷ *See also Broken Arrow and Bixby, Oklahoma, Coffeyville, Kansas*, 3 FCC Rcd 6507 (MM Bur. 1988).

7. In the event that its Counterproposal can not be favorably entertained, the Joint Parties advance two alternative proposals. The staff no longer entertains alternative proposals set forth in counterproposals.⁸ In any event, each of these alternatives fails to comply with our rules and procedures. The first proposal involves the proposal to reallocate Channel 248C to Keller, Texas, and modify the Station KLAK license to specify operation on Channel 248C at Keller. A Channel 248C allotment at Keller requires the substitution of Channel 230C1 at Archer City, and thus, cannot be considered. The second alternative only proposes the substitution of Channel 247C1 for Channel 248C at Waco, Texas, reallocation of Channel 247C1 to Lakeway, Texas, and modification of the Station KWTX license to specify operation on Channel 247C1 at Lakeway. The Joint Parties also proposed related channel substitutions necessary to accommodate this reallocation. However, none of these proposed channel substitutions conflict with the underlying Channel 233C3 allotment at Quanah, Texas, proposed in the *Notice*.

8. Accordingly, IT IS ORDERED, That the aforementioned proposal filed by Nation Wide Radio Stations for a Channel 233C3 allotment at Quanah, Texas, IS DISMISSED.

9. IT IS FURTHER ORDERED, That the aforementioned Counterproposal filed by the Joint Parties IS DISMISSED.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

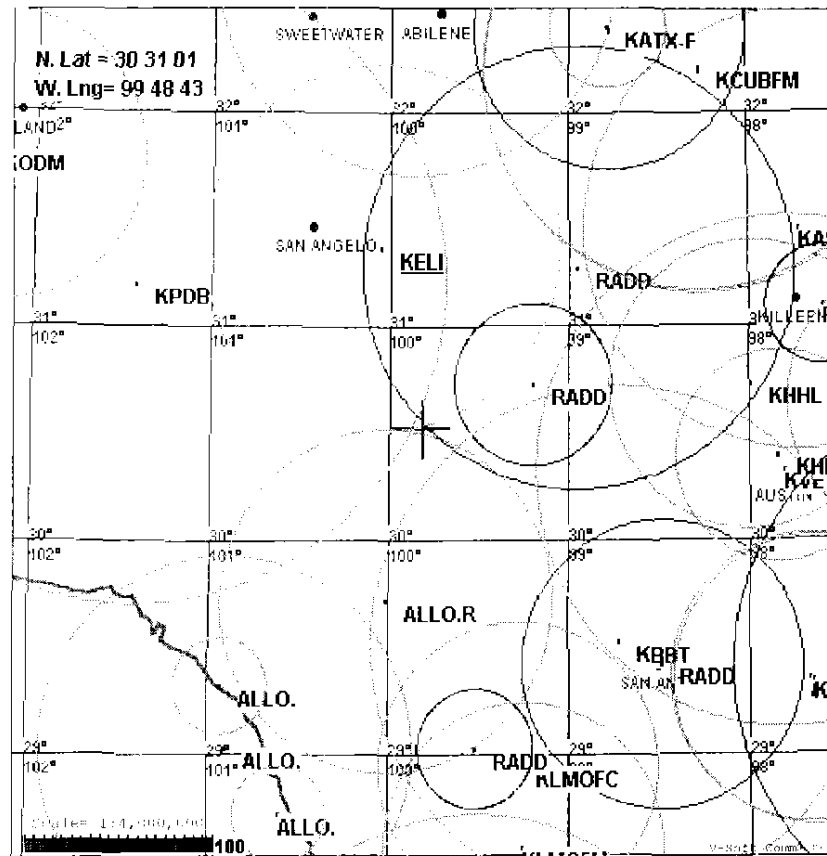
Peter H. Doyle
Chief, Audio Division
Media Bureau

⁸ See *Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (MM Bur. 2001).

Attachment D

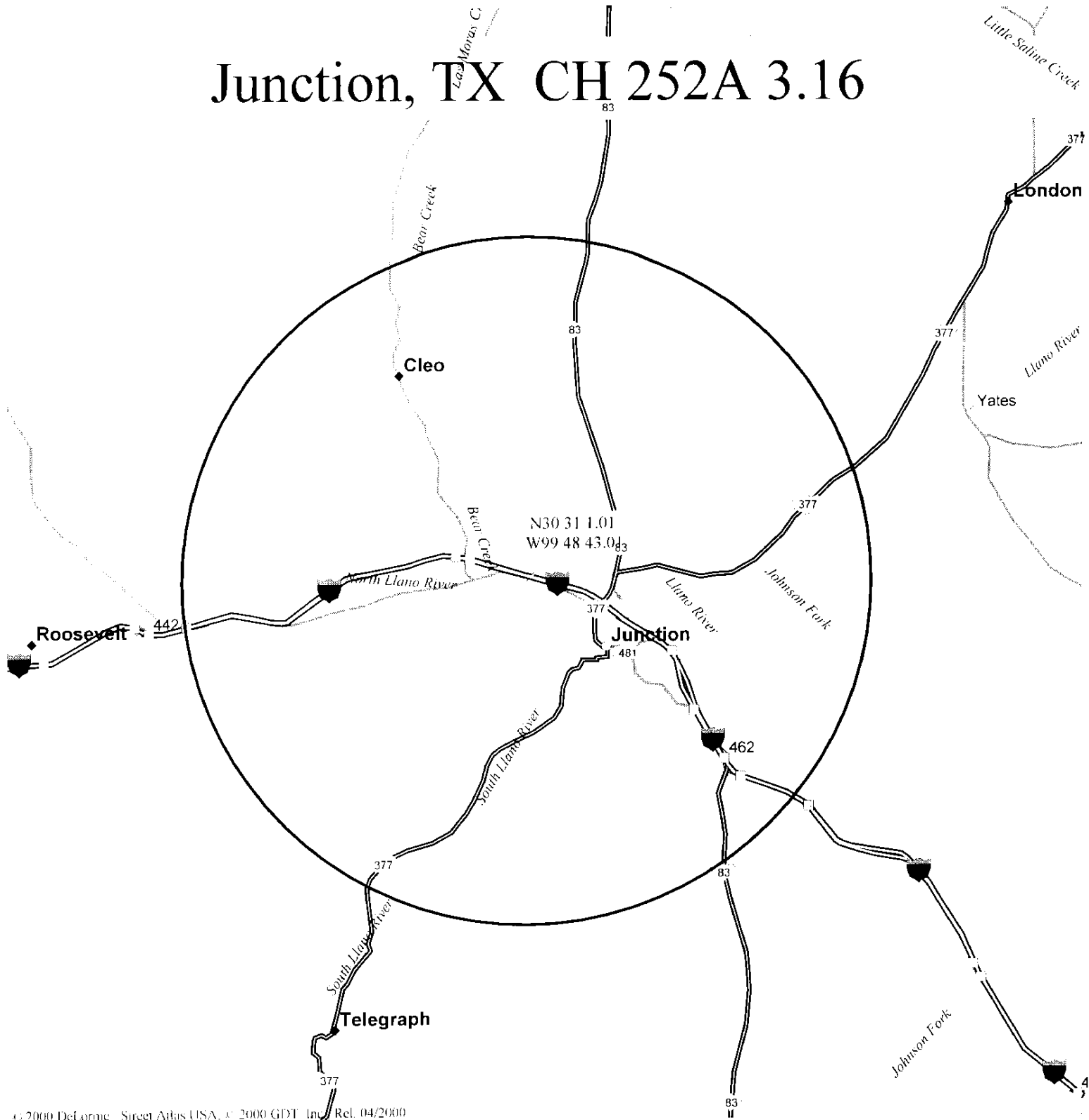
(Channel study for 252A at Junction, Texas)

FM PROSPTM LOCATE STUDY CH 252 A 98.3 MHz
Study



Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
KELI	254C*	LIC	San Angelo	TX	96.87	346.7	95.0	1.87
ALLO.R	251C3	RSV	Camp Wood	TX	91.07	192.4	89.0	2.07
RADD	252A	ADD	Richland Springs	TX	117.62	44.5	115.0	2.62
KPDB	252C2	LIC	Big Lake	TX	171.91	296.5	166.0	5.91
KBBT	253C1	LIC	Schertz	TX	152.14	136.2	133.0	19.14
RADD	249C3	ADD	Mason	TX	63.42	68.1	42.0	21.42
KVETFM	251C1	LIC N	Austin	TX	194.55	95.9	133.0	61.55
ALLO.	252A		San Carlos	CI	195.67	212.7	100.0	95.67
KHHL	255C1	LIC	Leander	TX	176.25	81.9	75.0	101.25
RADD	249C1	ADD	Converse	TX	176.79	133.3	75.0	101.79
RDEL	249C1	DEL	Mcqueeney	TX	176.79	133.3	75.0	101.79
RADD	249C1	ADD	Converse	TX	176.79	133.3	75.0	101.79
KLMOFC	255C1	CP -Z	Dilley	TX	181.93	163.5	75.0	106.93
KASZ.A	252A	APP N	Gatesville	TX	226.48	62.1	115.0	111.48
KASZ	252A	LIC N	Gatesville	TX	226.48	62.1	115.0	111.48
KCUBFA	252A	APP N	Stephenville	TX	237.67	38.1	115.0	122.67
RDEL	252A	DEL	Stephenville	TX	238.61	37.8	115.0	123.61
KCUBFM	252A	LIC	Stephenville	TX	238.61	37.8	115.0	123.61
KFQXFM	251C2	LIC	Anson	TX	237.93	359.1	106.0	131.98
KHHL.C	255C2	CP N	Leander	TX	190.21	93.7	55.0	135.21
RADD	250A	ADD	Batesville	TX	167.70	170.2	31.0	136.70
ALLO.	255A		Ciudad Acuna	CI	170.63	219.4	25.0	145.63
KLMOFM	255C1	LIC	Dilley	TX	222.93	165.8	75.0	147.93
RADD	253A	ADD	Ranger	TX	229.47	25.3	72.0	157.47
ALLO.R	249C1	RSV	Mcqueeney	TX	244.08	121.4	75.0	169.08
KVCQ.C	249C1	CP	Mcqueeney	TX	246.18	121.4	75.0	171.18
ALLO.	250A		Piedras Negras	CI	213.02	201.1	25.0	188.02
RADD	252C3	ADD	Sheridan	TX	331.21	111.3	142.0	189.21

Junction, TX CH 252A 3.16



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Mag 11.00

Mon May 19 19:24 2003

Scale 1:250,000 (at center)

5 Miles

5 KM

- Local Road
- US Highway
- Interstate/Limited Access
- Major Connector
- State Route
- Exit
- County Seat
- ◆ Small Town

- Locale
- Water
- River/Canal
- Intermittent River

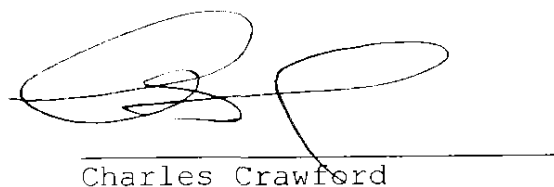
CERTIFICATE OF SERVICE

I, Charles Crawford, hereby certify that on this 22nd day of May, 2003, I caused copies of the foregoing "Petition for Rule making for Harper, Texas" to be placed in the U.S. Postal Service, first class postage prepaid, addressed to the following persons:

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
12th Street Lobby-TW-A325
Washington, D.C. 20554

Gene Bechtel, Esq.
Law Offices of Gene Bechtel, P.C.
1050 17th Street, N.W., Suite 600
Washington, D.C. 20036-5517
(Counsel for Petitioner)

Tichenor License Corporation
Station KXTN
3102 Oak Lawn Avenue
Suite 215
Dallas, Texas 75219



Charles Crawford